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August 26, 2020

Via EMAIL

The Honorable Kiyo A. Matsumoto
United States District Court Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Ricky Joshua Benny v. City of Long Beach, et al.*
20-CV-01908 (KAM) (ST)

Dear Judge Matsumoto,

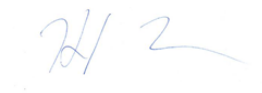
This letter is submitted by the parties regarding the Defendants' request to file a Rule 12(b)(6) motion. The parties have conferred and propose to proceed as follows.

Attached are three videos referenced in the Complaint. Defendants strongly believe that, on a full briefing of the motion, they will demonstrate that Plaintiff has failed to state a *Monell* claim against the City and that the individual defendants are entitled to qualified immunity as a matter of law.

Plaintiff strongly believes that the cases cited by the Defendants in its letter request are distinguishable on several grounds (including that they arose in a different procedural context) and that for other reasons that they can more fully set forth in a memorandum of law a 12(b)(6) motion would have no merit. In this regard, Plaintiff expressly reserves its rights to seek recovery of its fees in defense of the motion.

Despite the parties' disagreement as to the merits of the proposed motion, the parties have agreed on a proposed briefing schedule that would provide that Defendants' motion will be filed on or before September 4, 2020. Plaintiff's opposition would be due 30 days after Defendants' motion is filed. Defendants' Reply papers, if any, will be filed on or before two weeks after Plaintiff serves opposition papers.

Respectfully submitted,



Howard M., Miller, Esq.

cc: Frederick K. Brewington (*Via ECF*)
Attorney for Plaintiff